

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST )	
FOR REVIEW BY: )	CHARGE NO.: 2009SF0852
)	EEOC NO.: 21BA83191
<b>MARIANNE FARRAR</b> )	ALS NO.: 09-0666
)	
Petitioner. )	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Rozanne Ronen presiding, upon Marianne Farrar's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>1</sup> of Charge No. 2009SF0852; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

**LACK OF SUBSTANTIAL EVIDENCE**

In support of which determination the Commission states the following findings of fact and reasons:

1. The Petitioner filed a charge of discrimination with the Respondent on September 19, 2008. The Petitioner alleged in her charge that the Illinois Masonic Home (the "Employer") suspended (Count A) and discharged her (Count B) because of her national origin, Germany, in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On October 20, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On October 29, 2009, the Petitioner filed a timely Request.
2. The Employer is a retirement home facility that provides care for retirees as well as nursing home residents. The Petitioner worked there as a Dietary Manager.
3. On July 25, 2008, the Petitioner wrote a letter to one of the Employer's administrators in which the Petitioner accused the administrator of discriminating against her and harassing her because of her national origin. The Petitioner further stated she intended file a complaint against the administrator with the Department of Labor.

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<sup>1</sup> In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

4. In the summer of 2008, the Employer received complaints from three (3) of the Petitioner's co-workers that the Petitioner had been attempting to involve the Employer's residents in the dispute the Petitioner had with the administrator. One of the residents complained to a staff member about the Petitioner's conduct. A co-worker also complained to the Employer that the Petitioner had been verbally abusive to co-workers.
5. The Employer further determined the Petitioner had left work early on July 28, 2008, without the permission of her supervisor. The Petitioner thereafter called in sick and was absent from work until August 4, 2008.
6. On August 6, 2008, the Employer suspended the Petitioner with pay while it investigated the Petitioner's complaint against the administrator, as well as the complaints about the Petitioner's alleged behavior toward the Employer's residents.
7. On November 24, 2008, the Employer sent the Petitioner a notice that she was being discharged effective November 22, 2008, due to her disruptive behavior while in a supervisory position, her involvement of the Employer's residents in personnel matters, and her unscheduled absence from work from July 28, 2008 through August 4, 2008.
8. The Petitioner alleged in her charge that she was discharged because of her national origin. In her Request the Petitioner asks the Commission to review the matter but offers no further argument or additional evidence in support of her Request.
9. In its Response, the Respondent requests that the Commission sustain the dismissal of the Petitioner's charge for lack of substantial evidence because it found no substantial evidence the Employer's stated reasons for suspending and discharging the Petitioner were pretextual.

## **Conclusion**

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747 (March 7, 1995), 1995 WL 793258 (Ill.Hum.Rts.Com.)

Here, the Commission finds no evidence from which a reasonable person could conclude the Employer was motivated by the Petitioner's national origin.

First, as to Count A, at the time the Petitioner was suspended in August 2008, there was pending both the Petitioner's allegations against the administrator, as well as complaints that had

been made concerning the Petitioner's conduct. The Employer's stated reason for suspending the Petitioner, with pay, was so that it could investigate these various allegations and complaints. There has been no evidence submitted to the Commission from which it could conclude the Employer was in fact motivated by discriminatory animus.

As to Count B, the Commission finds no substantial evidence the Employer's stated reason for terminating the Petitioner in November 2008 was pretextual. The undisputed evidence demonstrates the Employer took approximately three (3) months to investigate all allegations concerning both the Petitioner and the administrator before reaching a decision to discharge the Petitioner. The Petitioner's belief or speculation that the Employer's decision was motivated by the Petitioner's national origin is not substantial evidence of discrimination. See Willis v. IDHR, 307 Ill.App.3d 317, 718 N.E.2d 240 (4<sup>th</sup> Dist. 1999). There was no evidence that a similarly situated employee outside of the Petitioner's protected class was treated more favorably under similar circumstances. Therefore, the Commission has no basis upon which to reverse the Respondent's determination as to Count B.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Illinois Masonic Home, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

**STATE OF ILLINOIS**

**HUMAN RIGHTS COMMISSION**

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**Entered this 26<sup>th</sup> day of May 2010.**

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen